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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,612	11/13/2003	Jerome A. Maloney	560043-620-638	9013
28997	7590	01/11/2006		
HARNESSE, DICKEY, & PIERCE, P.L.C 7700 BONHOMME, STE 400 ST. LOUIS, MO 63105			EXAMINER HYLTON, ROBIN ANNETTE	
			ART UNIT	PAPER NUMBER
			3727	
DATE MAILED: 01/11/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,612

Applicant(s)

MALONEY ET AL.

Examiner

Robin A. Hylton

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☒ Claim(s) 27-29 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11-13-03.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the upper dome (shape) of the closure assembly must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: the application number of the co-pending application is missing. Appropriate correction is required.

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3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title should include at least one technical, or inventive, feature of the claimed instant invention.

Claim Rejections - 35 USC § 112

4. Claims 3-11,13,17-19,23, and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the claims are rejected for the following reasons:

It is unclear if the inner, outer, or both the inner and outer ribs are being referenced in claim 5.

In claim 13, is the "step structure" a part of the spade? What is the spatial arrangement of the "step structure" with respect to the space? What is intended by "step structure"?

It is unclear from the claims how the horizontal and vertical ribs are "connected".

It is unclear if the lock mechanism mounted to the lower portion of the dome (claim 14) is the same as or different from the lock mechanism in the lower portion of the dome (claim 19).

Dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by Axworthy (US 4,892,978).

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Disclosed are upper dome **19** having a bulge **25** and a base **11**. At column 2, lines 48-**52**, a lock mechanism is disclosed for engaging the dome and base at the bulge.

7. Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Lohde et al (US 5,860,715). See figure 3 depicting the separated base portions and figure 9 depicting lock mechanism **60**.

8. Claims 1-3 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Leschinger et al. (US 6,462,269). See figure 3 depicting separated base portion and figure 4 depicting the horizontally extending inner and outer (unnumbered) ribs. To the degree set forth in the claims, the horizontally extending structure of Leschinger are horizontal ribs and meet the claimed limitation.

9. Claims 20 - 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Leschinger et al. (US 6,182,846).

Dome **14** has a vertical rib **33** on the interior wall thereof and the base has a slot **75** for receiving the rib. The ribs located on the base extend horizontally.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leschinger in view of Lohde.

Leschinger teaches the claimed apparatus except for a lock mechanism in the lower portion of the dome.

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Lohde teaches it is known to provide a lock mechanism (66) in the lower portion of the dome.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching in the lower portion of the dome of Leschinger. Doing so prevents unauthorized entry into the apparatus.

12. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lohde in view of Sabo (US 5,806,702).

Lohde teaches the claimed apparatus except for horizontally extending ribs.

Sabo teaches it is known to provide inner and outer extending horizontal ribs connected to an apparatus base.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of provide inner and outer extending horizontal ribs connected to an apparatus base of Lohde. Doing so provides reinforcement to the base walls of the apparatus for greater stability.

13. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leschinger '846 in view of Marks (US 4,631,353).

Leschinger teaches the claimed apparatus except for a lock mechanism in the lower portion of the dome.

Marks teaches it is known to provide a lock mechanism the lower portion of the dome.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of lock mechanism the lower portion of Leschinger. Doing so prevents unauthorized individuals from the accessing the contents of the apparatus.

14. Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leschinger '846 in view of Marks.

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Leschinger teaches the claimed apparatus except for a lock mechanism in the lower portion of the dome.

Marks teaches it is known to provide a lock mechanism the lower portion of the dome.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of lock mechanism the lower portion of Leschinger. Doing so prevents unauthorized individuals from the accessing the contents of the apparatus.

Allowable Subject Matter

15. Claims 18 and 19 appear to avoid the prior art of record and be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

16. Claims 27-29 are objected to as being dependent upon a rejected base claim, but would appear to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

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18. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

Signature_____

Date_____

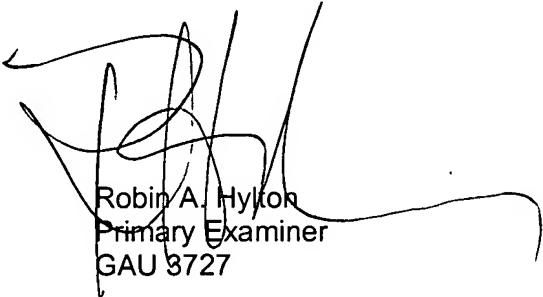
19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on (571) 272-4544.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAH
January 4, 2006


Robin A. Hylton
Primary Examiner
GAU 3727